

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

**CARLOS ENRIQUE GUERRERO
HERNANDEZ,**

Defendant.

CASE NO. 8:09CR139

PRELIMINARY ORDER OF FORFEITURE

This matter is before the Court on the United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 73). The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. The Defendant has entered into a Plea Agreement, whereby he has agreed to plead guilty to Counts II, III, V and VI of the Second Superseding Indictment. Count II charges the Defendant with one count of possessing actual methamphetamine with intent to distribute, in violation of 21 U.S.C. §§ 841(a)(1)&(b)(1). Count III charges the Defendant with one count of being an illegal alien in possession of a firearm, in violation of 18 U.S.C. § 922(g)(5)(A). Count V of said Second Superseding Indictment seeks the forfeiture, under 21 U.S.C., § 853, of \$1,920.00 in United States currency and a 1996 Ford Taurus 4-door vehicle, on the basis they were used or were intended to be used to facilitate the offense charged in Count II and/or were derived from proceeds obtained directly or indirectly as a result of the commission of that offense. Count VI of the Second Superseding Indictment seeks the forfeiture, under 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), of a RG Ind. Inc., model RG42, .25 caliber pistol, on the basis it was a firearm involved or used in the knowing commission of the offense charged in Count III.

2. By virtue of said plea of guilty, the Defendant forfeits his interest in the subject properties, and the United States should be entitled to possession of said properties, under 21 U.S.C. § 853, 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

IT IS ORDERED:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing NO. 73) is hereby sustained.

B. Based upon Counts V and VI of the Second Superseding Indictment and the Defendant's plea of guilty, the United States is hereby authorized to seize the \$1,920.00 in United States currency, a 1996 Ford Taurus 4-door vehicle and RG Ind. Inc., model RG42, .25 caliber pistol.

C. The Defendant's interest in said properties is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C., § 853(n)(1).

D. The aforementioned forfeited properties are to be held by the United States in its secure custody and control.

E. Under 21 U.S.C., § 853(n)(1), the United States forthwith shall publish for at least thirty consecutive days on an official Government internet site (www.forfeiture.gov) notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the properties in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

DATED this 7th day of April, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge